

Jury HANDBOOK

IMPORTANCE OF SERVICE

Trial by jury came with the colonists from England. One of the grievances against the King of Great Britain listed in the Declaration of Independence was depriving the colonists in many cases of the benefits of trial by jury. Trial by jury is now guaranteed as a fundamental right and part of due process of law by the Constitutions of the State of Delaware and of the United States of America.

Jury service is a high duty of citizenship. Jurors play an important part in the pursuit of justice. The protection of our rights is largely achieved through the teamwork of judge and jury who put into practice the principles of our great heritage of liberty under law. The jury's function is to find the facts and the judge's function is to state the law. The jury applies the law to the facts to reach a verdict. Jurors' greatest reward is the knowledge that they have discharged their duty to give a true, just and fair verdict according to the evidence and law.

TYPES OF CASES

Cases are divided into two general classes: criminal cases and civil cases.

Criminal cases are those in which individuals or corporations are charged with violating the criminal law. The most serious criminal charges are felonies, the lesser serious are misdemeanors, and the least serious are violations.

Civil cases are those in which an individual or corporation sues another individual or corporation seeking an award of monetary damages.

Every case requires the same careful consideration whatever the seriousness of the offense charged or the amount in controversy.

Criminal Cases

The Attorney General, who is the chief law enforcement officer of the State, prosecutes all criminal proceedings. The attorney general heads the State Department of Justice and appoints a number of lawyers as deputy attorneys general to assist in the performance of the duties of the attorney general.

All criminal prosecutions are brought in the name of the State. The person charged with a violation of law is the defendant. The charge against the defendant may be brought in two ways: by indictment or information.

An indictment is a grand jury's formal written accusation charging one or more identified persons with the commission of a criminal offense. Each offense charged is set forth in a separate count of the indictment.

There is a constitutional right to indictment by grand jury for all serious crimes, or any charge commenced in Superior Court, unless a defendant agrees to give up this right and consents to the filing of an information. An information is a written charge against the defendant filed by the attorney general rather than by a grand jury.

An arraignment is the defendant's entry of a plea of "guilty" or "not guilty" to the charges in the indictment or information. No trial is needed when the defendant admits to committing the crime by pleading guilty. Upon entry of a plea of not guilty, the defendant must stand trial.

An indictment or information is merely an accusation and is not evidence or indication of guilt. At trial, the defendant is presumed innocent and may not be found guilty unless the State meets its burden of proving to the satisfaction of the jury that the defendant is guilty beyond a reasonable doubt.

The jury decides whether the defendant is guilty or not guilty as to each offense charged. If the judge so instructs, the jury may find the defendant guilty of a less serious offense than the one charged. If a defendant is convicted, sentencing is the responsibility of the judge.

Civil Cases

Suppose that John Doe sues Richard Roe. The case is called John Doe vs. Richard Roe. John Doe is the plaintiff and Richard Roe is the defendant. The plaintiff and

the defendant are the parties.

The plaintiff states the claim in a complaint. The defendant responds to the complaint in an answer. The complaint and answer are the main pleadings. The pleadings frame the issues or points in dispute between the parties.

A typical example of a civil case is one arising from an automobile accident. The plaintiff claims injury as a result of the defendant's negligent driving and the defendant may deny negligence or dispute the degree of the claimed injury. At trial, the plaintiff has the burden of proving a claim by a preponderance of the evidence. The jury decides liability or legal responsibility and, if it finds the defendant liable, awards damages to compensate the plaintiff for harm caused by the defendant's negligence.

SELECTING A JURY

Summoning Jurors

State law requires that jurors be selected at random from a fair cross section of the county in which they serve. Thus, everyone has an equal opportunity and obligation to serve.

The names of jurors are drawn at random from lists of registered voters and other sources when necessary to assure that all groups in the community have a chance to be represented. Those qualified persons whose names have been drawn and who are not excused or excluded from service are summoned to serve for a term or a case are a panel.

Since jury service is an obligation of citizenship, persons summoned should request excuse only when necessary. Although jury service may be inconvenient, those who serve generally find it to be a worthwhile experience and feel justifiably proud to have performed this important civic duty.

Voir Dire

The persons assembled for selection as jurors in a particular case are the array. The array will be asked a series of questions, called the voir dire, which means "to speak the truth." The clerk or the judge will inform the array about the case and will identify the parties and their lawyers. Questions will then be asked to find out

whether anyone has any personal interest in the case or whether there is any reason why they might not be able to give the case their undivided attention and render an impartial verdict. For example, the court will ask whether anyone has a relationship to the parties, attorneys or witnesses. Jurors should listen carefully to all questions and respond at the appropriate time.

Seating Jurors

Names are drawn from the array at random until twelve persons (or six, if the parties agree) are seated in the jury box. As each name is called, the juror will be assigned to a seat by a bailiff, a court employee who maintains order in the courtroom and is responsible for custody of the jury. The person who is seated in chair #1 is the foreperson.

In the selection process, the parties may challenge jurors. There are two kinds of challenges: peremptory and for cause. There is no limit to the number of challenges for cause that either party may make. The court will grant a challenge for cause when there is a specific basis to question a juror's ability to be impartial in a particular case. The parties also have the right to a limited number of peremptory challenges. No reason is required for an attorney to exercise one of these. The peremptory challenge is a right long recognized as a means of giving both sides some choice in the make-up of their jury.

Jurors should realize that being challenged in no way reflects upon their ability, integrity, or their qualification to serve in other cases. When a challenge is exercised, the clerk will ask the juror to step from the box and a new juror will be selected. When both sides are content, or all challenges are exhausted, alternates are selected. Alternates are often needed to replace jurors who must be excused during the trial. Otherwise, they are excused when the jury begins deliberations.

Juror's Oath

When the jury has been selected, the jurors will be asked to rise and place their right hands on the Bible. Those who object to swearing an oath may affirm by raising their right hands. When the jurors have indicated assent by responding "I do," the clerk says as follows: "Members of the jury, you have all been severally sworn or affirmed. Stand together and hear the evidence."

The juror's oath is a solemn pledge to "well and truly try the issues." That means that the juror will consider carefully all of the evidence, will find the facts without passion or prejudice, will apply the law without fear or favor, will put out of mind and heart every extraneous matter, and will "a true verdict give according to the evidence."

STAGES OF A TRIAL

Opening Statements

The attorneys for each side will explain the nature of the case, the evidence they will present, and the issues for the jury to decide.

Presentation of Evidence

The evidence consists of the testimony of witnesses and the exhibits received in evidence. Most witnesses may only testify to facts observed by them. However, expert witnesses who are qualified by special knowledge in some field may offer opinions within their field of expertise. For example, physicians may give an opinion on whether a plaintiff's injury was caused by the automobile accident with the defendant. Witnesses normally testify in person, but they sometimes do so before trial at a deposition, and their testimony is read or played to the jury. Exhibits will be available in the jury room for examination during deliberations. During the trial, witnesses called by either side are questioned by the lawyer who calls them in direct examination and may be questioned by the lawyer on the other side in cross-examination.

Rulings by the Judge

The judge may be asked to decide questions of law during the trial. These questions often involve objections to evidence. Jurors should not hold the making of objections against a lawyer or the lawyer's client, because it is a lawyer's duty to represent the client in this way. Argument on such questions must ordinarily be made outside the presence of the jury. This may be done at a sidebar conference. Occasionally, the judge may ask jurors to leave the courtroom while the lawyers make their legal arguments. The jurors should understand that such interruptions are needed to make sure that the jury's verdict is based upon proper evidence. What

evidence is proper for the jury to consider is governed by the rules of evidence. The judge will either sustain, meaning agree with, or overrule, meaning disagree with an objection.

A ruling by the judge does not indicate that the judge is taking sides or commenting on the weight of the evidence. The judge is merely saying that the law of evidence does or does not permit a question to be asked or evidence to be presented. Jurors may give the evidence whatever weight they consider appropriate, but they must base their verdict solely on the evidence that the judge rules admissible.

Closing Arguments

After the evidence is completed, the lawyers have the opportunity to sum up the evidence in their closing arguments. The attorneys will try to persuade the jury to accept their client's view of the case. After hearing the lawyers advocate their client's claims and contentions, the jury is better able to determine the true facts.

Instructions to Jury

The judge will instruct or charge the jury on the law after closing arguments and before jury deliberations. The instructions will state the contentions of the parties and the issues or disputes of fact to be decided by the jury. The judge will also state the rules of law relating to the evidence presented. The judge will not directly or indirectly comment on the weight of the evidence, because the jurors are the sole judges of the facts. However, jurors must follow the law as stated by the judge, regardless of any personal opinion they might have of what the law is or ought to be.

Verdict of the Jury

Verdict means "true declaration." A true declaration is a verdict based solely on the evidence presented by the parties and the rules of law laid down by the judge. The jury's verdict is usually final.

When all jurors have agreed to a verdict, the foreperson notifies the bailiff, who assembles the parties in the courtroom for the announcement of the verdict. The clerk will inquire whether the jury has agreed upon a verdict and ask the foreperson to rise and deliver the verdict. Upon the request of a party to poll the jury, each juror is asked to confirm agreement to the verdict announced by the foreperson.

JUROR CONDUCT

Courtroom Etiquette

Jurors should follow common courtesy as a safe guide to their conduct. For example, jurors may not have read anything, such as a newspaper, or carry on a conversation in the courtroom during the trial.

Jurors should dress appropriately. Although the court does not have a specific dress code, jurors should not dress in such a casual way as to suggest a lack of appreciation of the importance of the issues to be decided by them to the parties and the public.

Jurors should inform the bailiff of any personal problem or, in an emergency, may contact the presiding judge. Jurors will be treated with consideration and their comfort and convenience will be served whenever possible.

Jurors should bring to the attention of the court any matter affecting their service. For example, they should promptly notify the bailiff if they cannot hear or see what is being said or shown to the jury.

Jurors should be prompt. Tardy jurors interfere with the work of the court and inconvenience the parties, witnesses, and other jurors.

During the Trial

Jurors should keep an open mind throughout the trial. Therefore, jurors should not form or express opinions or talk about the case until it is submitted to them for deliberations.

Jurors should not take notes without requesting permission from the presiding judge. Although note-taking should not normally be necessary, upon the giving of the appropriate instruction, the judge will usually grant such a request.

Jurors should not consider the statements of the lawyer as evidence or law. Any statement of fact that is not proven by the evidence and any statement of law that is not consistent with the judge's instructions should be disregarded.

Jurors should use their common sense and general experience, but may not rely upon special knowledge of the subjects in dispute. Any such special knowledge should be disclosed to the court.

Jurors should not inspect the scene of an accident or of any event in the case. If an inspection is necessary, the judge will have the jury view the scene as a group.

Jurors should not linger in the corridors or areas of the courthouse where they might have awkward or embarrassing contact with people interested in the case, and should not have any conversation at all with any party, witness, or person interested in the case. Such contact or conversation, however innocent, has an appearance of impropriety.

Jurors should not hear any comment about the case by anyone not on the jury, including their family or friends, and should not read, hear, or see any report about the case in the news. The jury's verdict may not be influenced by any such comment or report.

Jurors should inform the presiding judge if they realize during the trial that they know something about the case or someone involved in it, or if there is any other reason why their ability to be impartial might reasonably be questioned. The juror should not mention any such matter in the hearing of the other jurors.

Jurors should report to the presiding judge any improper conduct by any jurors or any attempt by anyone else to talk or otherwise communicate with a juror about a case in which the juror is sitting. It is improper for a juror to receive any information about a case other than the evidence presented in court.

During Deliberations

Jurors should be free from outside influences, and to assure this, they may be sequestered or kept together until a verdict is reached. This happens rarely, and, when it does, food and lodging are provided and jurors are given an opportunity to make necessary personal arrangements.

Jurors should cease all conversation about the case when a recess is declared in jury deliberations for lunch or overnight, and may not resume until all jurors have

returned to the jury room. All discussion must take place in the jury room with all jurors present.

Jurors should give full and fair consideration to the case. All jurors should have an opportunity to participate in the jury's deliberations.

Jurors should discuss the issues and freely exchange views with their fellow jurors before committing themselves to a particular position. They should not hesitate to change their minds when convinced by points made by other jurors.

Jurors should give careful consideration to the opinions of their fellow jurors, but they should not give up an opinion they continue to be convinced is correct for the purpose of returning a verdict.

Jurors should seek to unanimously agree to a verdict. However, if the jury cannot reach agreement after conscientious effort, the judge will declare a mistrial and discharge the jury as a "hung jury."

Jurors should put any question or request during deliberations in writing for delivery by the bailiff to the judge. The judge will confer with counsel and respond to the jury's note as promptly as possible.

Jurors should not allow bias, sympathy, or the consequences of a verdict to influence their deliberations. They should seek to do justice between the parties and should deliberate with a desire to declare the proper verdict.

After the Verdict

Jurors should be cautious about making comments on their verdict. They are under no obligation to speak to anyone about the case and would be wise not to do so.

Jurors should take care not to make any comment about the case that they would not be willing to state under oath, in case the losing litigant considers the juror's comment cause to challenge the jury's verdict in court.

CONCLUSION

All parties are equal before the law and each is entitled to the same fair treatment--whether individual or corporation and whatever race, religion, sex, national origin or

economic status.

Justice ultimately depends upon the quality of the jurors who serve in our courts. There is no more worthwhile work than the proper performance of jury duty, and the faithful fulfillment of this obligation should bring its own reward in the satisfaction of an important civic service well done.